THE RIGHT TO PRIVACY. — The recent decision of Judge Colt, sitting in the Circuit Court for the District of Massachusetts, in the case of *Corliss et al.* v. *Walker Co. et al.*, is especially interesting in relation to what is beginning to be known as the law of privacy. The suit was brought by the widow and children of George H. Corliss, the well-known inventor, to enjoin the defendants from publishing and selling a biography of Mr. Corliss, and from printing and selling his picture with the book. The bill did not allege that the publication contained anything scandalous, libellous, or false, nor that it affected any right of property. Relief was prayed for simply upon the ground that the publication was an injury to the feelings of the plaintiffs, and made against their express prohibition.

The injunction in regard to the publication was denied; but it was granted in regard to the printing and circulation of the portrait. It appears that the defendants obtained from the plaintiffs a copy of a portrait of Mr. Corliss upon certain conditions, with which they did not comply. The granting of the injunction as to the portrait therefore is based upon the ground that it would be a violation of confidence, or a breach of trust, in the defendants, to print and sell it. In dealing with the question of the biography, the court referred to the argument of the plaintiff's counsel that Mr. Corliss was a private character, and that the publication of his life was an invasion of the right of privacy. Judge Colt declared that he could not assent to the proposition that Mr. Corliss was a private character. He was an inventor of reputation, and a public man in the same sense as an author or an artist is a public man. It is hardly probable anybody would dispute the soundness of this part of the court's argument, and upon this ground the decision is doubtless right. But the decision goes still farther: it declares that it is immaterial whether Mr. Corliss is to be regarded as a private or a public character. For this position Judge Colt relies upon the constitutional privilege of freedom of speech and of the press. "Under our laws," he says, "one can speak and publish what he desires, provided he commit no offence against public morals or private reputation." It will be observed that Judge Colt does not recognize the right to privacy as distinct from the law of slander and libel on the one hand, and that of property and contract on the other. On this point the opinion would seem to differ from that in the late case of *Schuyler* v. *Curtis et al.*, 24 N. Y. Suppl. 509, in which the court enjoined the defendants from erecting a statue of Mrs. Schuyler, on the ground that such an act would be an unwarrantable invasion of the right to privacy. The opinion in the Corliss case refers to *Schuyler* v. *Curtis*, and says it is not in point, because in that case the right of publication was not in issue. It is difficult to see upon what principle this observation is true, nor is it easy to comprehend in what essential respect the making and erection of a statue in the likeness of a man differs from the publication of his biography, so far as the point under discussion is concerned.

The whole subject of privacy is new, and these two cases are perhaps the only authorities that bear directly upon it. Like all new problems in law it has been brought up by new conditions of life. The newspaper, the telegraph, and the instantaneous photograph have made it infinitely easier to destroy the privacy of individuals, and to expose the victims of morbid curiosity to a degree of inconvenience and pain that was not dreamed of a few years ago. The question is bound to come up more and

more frequently in the courts, and it is believed that the desire of everybody will be that the law may carry forward the tendency of the decision in *Schuyler* v. *Curtis* rather than adopt the suggestion in *Corliss* v. *Walker* that the distinction between public and private character is unimportant.

The attention of those who are interested in the matter is directed to the able article by Messrs. Warren and Brandeis, entitled, "The Right to Privacy," in 4 HARVARD LAW REVIEW, p. 193. It is, so far as is known, the only scientific discussion of the subject, and it contains an interesting plea for the protection of "the right to be let alone," as Judge Cooley calls privacy, and also a collection of the few authorities that throw any light upon the subject.

CHARLES INGALLS GIDDINGS, a former editor of this REVIEW, was drowned in Lake Winnipiseogee, N. H., Aug. 17, 1893. He had taken several poor boys from Boston to New Hampshire for a vacation, and lost his life in an heroic effort to save one of the lads who had fallen overboard from a steamer. Mr. Giddings received the Harvard A. B. degree in 1887, and graduated at the Law School *cum laude* in 1890. In addition to the editorial work done during his course, he contributed to the REVIEW for January, 1892, an article on "Restrictions upon the use of Land" (5 H. L. R. 274). Mr. Giddings is understood to have made an excellent beginning in legal practice. Some idea of his professional standing may be gathered from the fact that he was selected to furnish for the American and English Encyclopædia of Law an article on the important and difficult topic, *Ultra Vires*. Of his character we need only say that those who knew him well, regard his death as a fitting climax to a pure and unselfish life.

RECENT CASES.

AGENCY — BROKERS — RELATIONS OF THEIR CUSTOMERS TO THEM. — A customer and a broker buying and selling stocks upon margins stand in the relation of pledgor and pledgee, and the fact that the broker has an implied right of repledging stocks does not change the relation. *Skipp et. al* v. *Stoddard*, 26 Atl. Rep. 874 (Conn.).

This case shows the common doctrine. See *Markham* v. *Jaudon*, 41 N. Y. 235, which is perhaps the leading case on the subject; and also Jones on Pledges, § 495. The case of *Covell* v. *Loud*, 135 Mass. 41, is *contra*, the court treating the dealing between the parties as an executory agreement, with power in broker to sell without notice on default by customer.

CONSTITUTIONAL LAW — GEARY ACT — CHINESE EXCLUSION. — An Act of Congress, after continuing the laws then in force for the exclusion of Chinese from the United States, provides for the removal of Chinese not lawfully within this country, requiring that all Chinese laborers entitled to remain in the United States shall obtain certificates of residence from persons authorized by the act to give them, under penalty of removal on failure to do so within one year. On an appeal from the Circuit Court which raised the question of the constitutionality of the Act, the court *held*, that the Act was constitutional. That inasmuch as Chinese laborers cannot under the naturalization laws become citizens, they remain subject to the power of Congress to order their expulsion. That the order of deportation is not a punishment, "but a method of enforcing the return to his own country of an alien who has not complied with the conditions upon the performance of which the government of the nation has determined that his continuing to reside here shall depend," consequently that part of the Constitution securing the right of trial by jury and prohibiting unreasonable searches and punishments has no application. *Fong Yue Ting* v. *United States*, 13 Sup Ct Rep. 1016. Fuller, C. J., and Field and Brewer, JJ., *dissenting*.